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Attorneys for Rosendo Gonzalez, Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re

BEVERLY MONIQUE
MURRAY-CALCOTE

Debtor.

Case No.: 2:17-bk-11972-RK

Chapter: 7

**TRUSTEE'S REPLY TO DEBTOR'S
DECLARATION IN RESPONSE TO
TRUSTEE'S MOTION FOR ORDER (1)
COMPELLING THE DEBTOR'S
COOPERATION WITH THE TRUSTEE
PURSUANT TO 11 U.S.C. § 521 AND; (2)
REQUIRING TURNOVER OF PROPERTY
OF THE ESTATE PURSUANT TO 11
U.S.C. §542**

Hearing Date:

Date: September 12, 2017

Time: 2:30 p.m.

Place: Courtroom 1675

United States Bankruptcy Court
255 E. Temple Street
Los Angeles, CA 90012

TO THE HONORABLE ROBERT KWAN, UNITED STATES BANKRUPTCY JUDGE:

Rosendo Gonzalez, Chapter 7 Trustee ("Trustee") for the bankruptcy estate (the "Estate") of Beverly Monique Murray-Calcote (the "Debtor"), respectfully submits the following reply to the Declaration of Beverly Monique Murray-Calcote (the "Opposition", Dkt. No. 42) filed in response to the Trustee's Motion for Order (1) Compelling the Debtor's Cooperation with the Trustee Pursuant to 11 U.S.C. § 521 and (2) Requiring Turnover of Property of the Estate Pursuant to 11 U.S.C. § 542" (the "Motion", Dkt. No. 35).

I. REPLY

The Debtor has an affirmative duty to cooperate with the Trustee in the administration of the bankruptcy estate. 11 U.S.C. § 521(a)(3). Although the Debtor has produced multiple documents responsive to the Trustee's Motion, additional documents remain outstanding. To date, the Debtor has failed to file amended schedules to list her interest in two lawsuits, which the Trustee believes the Debtor has an interest in, namely *Calcote v. Thomas* (Superior Court of California, Case No. BC651610) and *Schwartz v. Quartz Hill* (Superior Court of California, Case No. BC525376) (together the "State Court Lawsuits"). Additionally, the Trustee has not received copies of following documents responsive to the Motion:

- a. Debtor's 2016 tax return;
- b. Most recent home equity line of credit statement for the Lancaster Property;
- c. Copies of checks (front and back), deposits, and withdrawal's for any amounts greater than \$1,000 for the period December 2014 through June 2017 for the following accounts:
 - i. Bank of America Acct #'s ending in -4650 and -5643;
 - ii. Chase Acct No.'s ending in -2519 and -2759;
 - iii. Wells Fargo Acct. No. ending in -5567 (checking and savings);
 - iv. Wells Fargo Acct No. ending in -5409 (checking and savings);
 - v. Wells Fargo Acct No. ending in -8541 (checking and savings); and
 - vi. Wescom Member No. ending in -1311

(collectively, the "Outstanding Documents").

The Trustee has made multiple efforts to accommodate the Debtor and allow additional time for the Debtor to correctly list all of her assets on her bankruptcy schedules and to produce the Outstanding Documents to the Trustee. See Declaration of Noreen A. Madoyan annexed hereto. However, to date, the Debtor has failed to produce the remaining Outstanding Documents and the Trustee does not have any

1 assurance as to when such documents will be provided. As such, the Trustee now
2 requires a Court order to ensure that the Debtor timely produces the Outstanding
3 Documents for the Trustee's review and analysis.

4 **II. CONCLUSION**

5 Wherefore, the Trustee prays that this Court enter its order:

- 6 1. Directing the Debtor to turn over the Outstanding Documentation within
7 fourteen (14) days of entry of an order granting the Motion;
8 2. Compelling the Debtor to file amended schedules to accurately disclose the
9 State Court Lawsuits; and
10 3. For such other and further relief as the Court deems just and proper

11 DATED: September 5, 2017

MARGULIES FAITH, LLP

12 By: /s/ Noreen A. Madoyan
13 Jeremy W. Faith
14 Noreen A. Madoyan
15 Attorneys for Rosendo Gonzalez,
16 Chapter 7 Trustee
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DECLARATION OF NOREEN A. MADOYAN

I, Noreen A. Madoyan, declare as follows:

2. I am an attorney at law, duly qualified to practice before all courts of the state of California and before the United States District Court for the Central District of California. I am an associate with the law firm of Margulies Faith LLP, counsel for Rosendo Gonzalez, the chapter 7 trustee of the bankruptcy estate of Beverly Monique Murray Calcote. I am over the age of eighteen and I know each of the following facts to be true of my own personal knowledge, except as otherwise stated, and, if called as a witness, I could and would competently testify with respect thereto.

3. I make this declaration in reply to the Debtor's declaration in response to the "Motion for Order (1) Compelling the Debtor's Cooperation with the Trustee Pursuant to 11 U.S.C. § 521 and (2) Requiring Turnover of Property of the Estate Pursuant to 11 U.S.C. § 542" (the "Motion", Dkt. No. 35). Any term not specifically defined herein shall have the meanings provided in the Motion.

4. On Tuesday, July 18, 2017, the Trustee received copies of several documents requested in the Motion, including but not limited to bank statements, tax returns, property reports, and mortgage statements (the "July 18 Production").

5. On July 19, 2017, due to the July 18 Production, the Trustee and the Debtor entered into a stipulation to continue the hearing on the Motion to August 22, 2017 to allow time for the Trustee to review the documents produced (the "First Stip to Continue", Dkt. No. 47). An order approving the First Stip to Continue was entered on July 21, 2017 (DKt. No. 49).

6. On July 28, 2017, after reviewing the July 18 Production, I sent an email to the Debtor's counsel, Ms. Julie Villalobos ("Ms. Villalobos"), requesting the following documents, which remained outstanding (the "July 28 Email"):

- a. Most recent home equity line of credit statement for the real property located at 3166 W. Avenue M2, Lancaster, CA 93536 (the "Lancaster Property");

- b. Debtor's 2016 tax return;
- c. Bank of America statements held in the name of the Debtor for the account ending -4650 for the period January 1, 2014 through April 30, 2017 (only odd pages were produced, even pages missing);
- d. Hair Connection Plus – Tax Returns for years 2014-2016;
- e. Checks – Copies of checks (front and back), deposits, and withdrawal's for any amounts greater than \$1,000 for the period December 2014 through June 2017 for the following accounts:
 - i. Bank of America Acct #'s ending in -4650 and -5643;
 - ii. Chase Acct No.'s ending in -2519 and -2759;
 - iii. Wells Fargo Acct. No. ending in -5567 (checking and savings);
 - iv. Wells Fargo Acct No. ending in -5409 (checking and savings);
 - v. Wells Fargo Acct No. ending in -8541 (checking and savings);
 - vi. Wells Fargo Acct No. ending in -9519; and
 - vii. Wescom Member No. ending in -1311

7. I requested that the Debtor produce the documents requested in the July 28 Email by Monday, August 7, 2017. A true and correct copy of my July 28 Email is attached hereto as **Exhibit A**.

8. On August 8, 2017, the Debtor produced documents responsive to the July 28 Email, including Hair Connection Plus tax returns for years 2013-2015, full Copies of the Bank of America statements, and select Wells Fargo Account check images.

9. On August 9, 2017, I emailed the Debtor's counsel itemizing the list of documents still outstanding, pursuant to my July 28 Email (the "August 9 Email"), including:

- a. Debtor's 2016 tax return;
- b. Most recent home equity line of credit statement for the Lancaster Property;

1 c. Copies of checks (front and back), deposits, and withdrawal's for any
2 amounts greater than \$1,000 for the period December 2014 through June
3 2017 for the following accounts:

- 4 i. Bank of America Acct #'s ending in -4650 and -5643;
- 5 ii. Chase Acct No.'s ending in -2519 and -2759;
- 6 iii. Wells Fargo Acct. No. ending in -5567 (checking and savings);
- 7 iv. Wells Fargo Acct No. ending in -5409 (checking and savings);
- 8 v. Wells Fargo Acct No. ending in -8541 (checking and savings); and
- 9 vi. Wescom Member No. ending in -1311

10 10. On August 9, 2017, I also requested that the Debtor amend her schedules
11 to list her interest in two lawsuits, which the Trustee believes the Debtor has an interest
12 in, namely *Calcote v. Thomas* (Superior Court of California, Case No. BC651610) and
13 *Schwartz v. Quartz Hill* (Superior Court of California, Case No. BC525376) (together the
14 "State Court Lawsuits").

15 11. I requested that the Debtor provide the outstanding documents and amend
16 her schedules by Monday, August 14, 2017. A true and correct copy of the August 9
17 Email is attached hereto as **Exhibit B**.

18 12. On August 15, 2017, Ms. Villalobos emailed me requesting clarification
19 regarding the cancelled check request and indicating that the Debtor is promptly
20 producing documents responsive to the August 9 Email.

21 13. On August 16, 2017, based on Ms. Villalobos' representations in her
22 August 15, 2017 email, the Trustee and the Debtor entered into a second stipulation to
23 continue the hearing on the Motion to September 12, 2017 (the "Second Stip to
24 Continue", Dkt. No. 51). An order approving the Second Stip to Continue was entered on
25 August 16, 2017 (Dkt. No. 53).

26 14. On August 21, 2017, I sent a follow-up email to Ms. Villalobos requesting a
27 status update on the documents responsive to the August 9 Email. Ms. Villalobos
28 indicated that she will follow-up with her client.

1 15. To date, the Debtor has failed to file amended schedules to list her interest
2 in the State Court Lawsuits and the Trustee has not received copies of the documents
3 responsive to the August 9 Email. As such, the Trustee now requires a Court order to
4 ensure that the Debtor timely produces the outstanding documents for the Trustee's
5 review and analysis.

6 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is
7 true and correct.

8 Executed on September 5, 2017 at Encino, California.

9
10 /s/ Noreen A. Madoyan

Noreen A. Madoyan

Exhibit A

Noreen Madoyan

From: Noreen Madoyan
Sent: Friday, July 28, 2017 12:59 PM
To: 'Julie Villalobos'
Cc: Ryan Moradi; Jeremy Faith
Subject: Beverly Calcotte

Julie:

I have had an opportunity to review the documents produced to our office via DropBox on July 18, 2017. At this time, the following items are outstanding:

- 1) Most recent home equity line of credit statement for the Lancaster Property. Debtor's amended Schedule D indicates the debt is held by Bank of America.
- 2) Debtor's 2016 tax return.
- 3) Bank of America Bank Statements – Even page numbers for all the Bank of America bank statements are missing (only pages 1, 3, 5, etc. of each statement produced). It is possible that this was a scanning error, as the documents were double-sided, but were not scanned in that manner. Please provide complete copies of the Bank of America bank statements.
- 4) Hair Connection Plus – Tax returns for years 2014-2016
- 5) Checks – Copies of all checks (front and back), deposits, and withdrawal's for any amounts greater than \$1,000 for the period December 2014 through June 2017, for all accounts, including:
 - a. Bank of America Acct #'s: 0025 8717 4650 and 0025 8757 5643
 - b. Chase Acct #'s: 00789932519 and 003381562759
 - c. Wells Fargo Acct # 7543945567 (checking and savings)
 - d. Wells Fargo Acct #'s: 2502625409 (checking and savings) and 2959638541 (checking and savings)
 - e. Wells Fargo Acct # 1404549519
 - f. Wescom Acct #: 531311

Pleas produce the above-listed items by Monday, August 7, 2017 for the Trustee's review. If you have any further questions, please let me know.

Best,
Noreen

Noreen A. Madoyan, Esq.
Associate



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IRS Circular 230 Disclosure: To ensure compliance with Treasury Department Regulations, we advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matter addressed herein.

Exhibit B

Noreen Madoyan

From: Noreen Madoyan
Sent: Wednesday, August 09, 2017 2:09 PM
To: 'Julie Villalobos'
Cc: 'Ryan Moradi'; Jeremy Faith
Subject: RE: Beverly Calcotte

Ryan,

I have had an opportunity to review the documents which were produced via Dropbox yesterday afternoon and they are still deficient. At this time, the Trustee is still awaiting copies of:

- 1) Most recent home equity line of credit statement for the Lancaster Property. Debtor's amended Schedule D indicates the debt is held by Bank of America.
- 2) Debtor's 2016 tax return.
- 3) Checks – Copies of all checks (front and back), deposits, and withdrawal's for any amounts greater than \$1,000 for the period December 2014 through June 2017, for all accounts, including:
 - a. Bank of America Acct #'s: 0025 8717 4650 and 0025 8757 5643
 - b. Chase Acct #'s: 00789932519 and 003381562759
 - c. Wells Fargo Acct #'s: 2502625409 (checking and savings) and 2959638541 (checking)
 - d. Wescom Acct #: 531311

In addition, the Trustee requires the Debtor to amend her schedules to list the following lawsuits, which we believe the Debtor has an interest in: *Calcote v. Thomas* (Superior Court of California, Case No. BC651610) and *Schwartz v. Pinnacle Quartz Hill* (Superior Court of California, Case No. BC525376).

Please provide the above by Monday, August 14, 2017.

Best,
Noreen

From: Noreen Madoyan
Sent: Friday, July 28, 2017 12:59 PM
To: 'Julie Villalobos' <julie@oaktreelaw.com>
Cc: Ryan Moradi <ryan@oaktreelaw.com>; Jeremy Faith <Jeremy@marguliesfaithlaw.com>
Subject: Beverly Calcotte

Julie:

I have had an opportunity to review the documents produced to our office via DropBox on July 18, 2017. At this time, the following items are outstanding:

- 1) Most recent home equity line of credit statement for the Lancaster Property. Debtor's amended Schedule D indicates the debt is held by Bank of America.
- 2) Debtor's 2016 tax return.
- 3) Bank of America Bank Statements – Even page numbers for all the Bank of America bank statements are missing (only pages 1, 3, 5, etc. of each statement produced). It is possible that this was a scanning error, as the documents were double-sided, but were not scanned in that manner. Please provide complete copies of the Bank of America bank statements.

- 4) Hair Connection Plus – Tax returns for years 2014-2016
- 5) Checks – Copies of all checks (front and back), deposits, and withdrawal's for any amounts greater than \$1,000 for the period December 2014 through June 2017, for all accounts, including:
 - a. Bank of America Acct #'s: 0025 8717 4650 and 0025 8757 5643
 - b. Chase Acct #'s: 00789932519 and 003381562759
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 - d. Wells Fargo Acct #'s: 2502625409 (checking and savings) and 2959638541 (checking and savings)
 - e. Wells Fargo Acct # 1404549519
 - f. Wescom Acct #: 531311

Pleas produce the above-listed items by Monday, August 7, 2017 for the Trustee's review. If you have any further questions, please let me know.

Best,
Noreen

Noreen A. Madoyan, Esq.
Associate



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IRS Circular 230 Disclosure: To ensure compliance with Treasury Department Regulations, we advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matter addressed herein.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
16030 Ventura Blvd., Suite 470, Encino, CA 91436

A true and correct copy of the foregoing document entitled **TRUSTEE'S REPLY TO DEBTOR'S DECLARATION IN RESPONSE TO TRUSTEE'S MOTION FOR ORDER (1) COMPELLING THE DEBTOR'S COOPERATION WITH THE TRUSTEE PURSUANT TO 11 U.S.C. § 521 AND; (2) REQUIRING TURNOVER OF PROPERTY OF THE ESTATE PURSUANT TO 11 U.S.C. §542** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On September 5, 2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL OR CERTIFIED MAIL (state method for each person or entity served):

On September 5, 2017, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR: Beverly Monique Murray-Calcote, 3166 West Ave M-2, Lancaster, CA 93536

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on September 5, 2017, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

VIA FEDEX OVERNIGHT: Judge: Hon. Robert Kwan, U.S. Bankruptcy Court, 255 E. Temple St., Ste. 1682, Los Angeles, CA 90012

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

September 5, 2017
Date

Helen Cardoza
Printed Name

/s/ Helen Cardoza
Signature

ADDITIONAL SERVICE INFORMATION (if needed):

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

Jeremy Faith Jeremy@MarguliesFaithlaw.com, Helen@MarguliesFaithlaw.com;Noreen@MarguliesFaithlaw.com;
Victoria@MarguliesFaithlaw.com;Brian@MarguliesFaithlaw.com

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khernandez@gonzalezplc.com,rossgonzalez@gonzalezplc.com

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Zann R Welch ecfnofices@ascensioncapitalgroup.com